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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 DEVIN D. SMITH,
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13 Petitioner,
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15 v.
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17 SACRAMENTO COUNTY,
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19 Respondents.
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No. 2:21-cv-0439 CKD P

ORDER AND
FINDINGS AND RECOMMENDATIONS

21 Petitioner is a Sacramento County Jail prisoner proceeding pro se. On May 17, 2021, his
22 petition for a writ of habeas corpus was dismissed with leave to amend within 30 days. The 30-
23 day period has expired and petitioner has not responded to the court's order May 17, 2021 order.

24 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court assign a district
25 court judge to this case; and

26 IT IS HEREBY RECOMMENDED that this case be closed.

27 These findings and recommendations are submitted to the United States District Judge
28 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
after being served with these findings and recommendations, petitioner may file written
objections with the court. Such a document should be captioned "Objections to Magistrate
Judge's Findings and Recommendations." In his objections petitioner may address whether a
certificate of appealability should issue in the event he files an appeal of the judgment in this

1 case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district court must issue or
2 deny a certificate of appealability when it enters a final order adverse to the applicant). Where, as
3 here, a habeas petition is dismissed on procedural grounds, a certificate of appealability “should
4 issue if the prisoner can show: (1) ‘that jurists of reason would find it debatable whether the
5 district court was correct in its procedural ruling;’ and (2) ‘that jurists of reason would find it
6 debatable whether the petition states a valid claim of the denial of a constitutional right.’” Morris
7 v. Woodford, 229 F.3d 775, 780 (9th Cir. 2000) (quoting Slack v. McDaniel, 529 U.S. 473, 484
8 (2000)). Petitioner is advised that failure to file objections within the specified time may waive
9 the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

10 Dated: June 29, 2021



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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